Supreme Court, U.S.
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No. 98-334

In The
SUPREME COURT OF THE UNITED STATES

October Term, 1997

MARIS FRIEDLANDER n/k/a
MARIS FREED

Petitioner,

v.

AMERICAN ARBITRATION ASSOCIATION,
A New York Not-for-Profit Corporation
and BURTON G. FRIEDLANDER,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

PETITIONERS REPLY TO RESPONDENT, AAA, BRIEF IN OPPOSITION TO PETITIONERS PETITION FOR WRIT OF CERTIORARI

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Petitioner's Reply To Respondent AAA Statement of the Case

AAA omits mentioning that it also had a contractual obligation to Petitioner to give grounds and reasons for locating arbitration in White Plains, New York (pp. 5, 10, 12-16, 19 of the Petition].

Noteworthy is the fact that AAA did not object to the timeliness of Petitioner's locale objections filed with AAA, thereby conceding their timeliness, whereas Friedlander, without merit, did object to such timeliness [pp. 4-5, Friedlander's Brief in Opposition to the Petition].

AAA Argument

Reasons for Denying Writ

AAA concedes that its administration of arbitration between Petitioner/Friedlander occurs pursuant to their private contract for arbitration with AAA [p. 3-7, AAA Brief in Opposition to the Petition]. Petitioner paid and will pay additional, large sums of money to AAA for its arbitration services and expected and was entitled to expect grounds and reasons for decisions rendered by AAA in the course of arbitration. However, AAA refused to give grounds and reasons for its location [venue] decision.

Contractually Petitioner/AAA bargained for being given grounds and reasons in return for paying and agreeing to pay AAA the aforementioned, substantial sums of money for its arbitration services. See pp. 5, 10, 12-16, 19 of Petitioner's Certiorari Writ where this is discussed in detail.

Friedlander's written demand for arbitration to White Plains [submitted by him November 13, 1997] does not contain provisions eliminating and not requiring grounds and reasons for

AAA decisions. Additionally, there are no written or other undertakings between any of the parties and AAA permitting it to refrain from giving grounds and reasons for its decisions. On a strictly contractual basis, AAA is not permitted to refuse to give grounds and reasons as it must be said that these were bargained for by the parties and AAA, especially where the parties paid and are to pay additional and substantial moneys to AAA for its services. It cannot be said under the circumstances that AAA did not commit itself to give such grounds and reasons. [See pp. 5, 10, 12, 16, 19 of the Petition].

I. AAA's Administration of the Parties Private Contract Involves State Action

The New York Arbitration Statute, Ch. 75, CPLR §7501-7514 [App. VII to Petition] is a State Statute which does not contain provisions [nor can it be so interpreted] permitting AAA to refrain from giving grounds and reasons for its decisions. New York Court's have interpreted that statute [pp. 8 of Petition] as not requiring AAA to give such grounds and reasons. State action by those New York Courts, a clear 14th Amendment, due process circumstance, is explained in the Petition [pp. 5-9 thereof]. AAA followed those New York State Court decisions [which violated Petitioners due process rights under the 14th Amendment] by condoning AAA's refusal to give grounds and reasons.

AAA refers to the Federal Arbitration Act, 9USC §1, et seq. [p. 4 of AAA in Opposition]when that is not applicable. If anything, the New York Arbitration Statute is applicable. Federal policy regarding arbitration [referred to at p. 4 of AAA Brief in Opposition] is not the standard and such is misstated by AAA.

II. Petitioner has Rights Through Its Agreement With AAA For AAA To Give Grounds and Reasons For Its Decisions

AAA ignores here the fact that it notified counsel for the parties on December 8, 1997 that "in determining hearings location the following factors [8 substantial factors] are viewed by AAA as significant in determining locale" [pp. 4-5 of the Petition; pp. 20(o) and 20(p), App. to Petition.

That December 8, 1997 letter itself indicated AAA would consider those "8 significant factors." Having so stated, it is a clear indication of AAA's responsibility to give such grounds and reasons, or why ask the parties to supply material regarding the 8 significant factors.

AAA states [p. 5 of its Brief in Opposition],

> *"...As a result, Rule 11 of the Association provided that* location would be determined by the Association."

Yes, but determined by AAA in conjunction with considering materials submitted to it by the parties on the 8 significant factors. Why ask for such information if the parties are not given grounds and reasons for AAA's location decision. These matters were not intended to be kept secret, silent or confidential.

III. There Is Good Reason For Review on Certiorari

AAA "boasts" about providing "Dispute Resolution Worldwide" [pp. 20(o), of Appendix to Petition]. That doesn't tell anyone that AAA will not give grounds and reasons for its decisions, quite the contrary.

The issue is so broad and all pervasive that Certiorari is required to determine it.

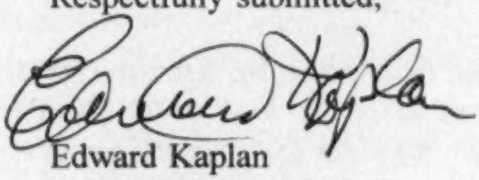
Petitioner's Conclusion

Petitioner again reiterates that need for resolution of the foregoing is plain and compelling. Petitioner asks this Court to revisit the matters raised in the Petition, this Reply and Opposing briefs.

To our knowledge and research the contractual issue visa via petitioner/AAA has not been considered. Likewise, Petitioner's 14th Amendment arguments have never been taken into account concerning her perceptions of State action.

We therefore respectfully ask this Honorable Court to consider the national and international impact AAA exercises on persons, firms, commerce, and industry by its own claims, and advertising grant Petitioner's Petition for a Write of Certiorari.

Respectfully submitted,



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